



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,292	02/05/2001	Harry McCabe	6706-004	7177

23483 7590 05/12/2004

HALE AND DORR, LLP
60 STATE STREET
BOSTON, MA 02109

EXAMINER

MCCARTHY, CHRISTOPHER S

ART UNIT	PAPER NUMBER
----------	--------------

2113

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/777,292

Applicant(s)

MCCABE, HARRY

Examiner

Christopher S. McCarthy

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 12, 13, 16, 17 and 19-23 is/are rejected.
- 7) ☒ Claim(s) 9, 11, 14, 15 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input checked="" type="checkbox"/> Other: <u>Response to Arguments</u> . |

DETAILED ACTION

1. Claims 1, 3-8, 10, 17, 19-20, 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Grant et al U.S. Patent 5,027,269, as cited in prior office action, which was mailed on 10/6/2003.

2. Claims 2, 12, 13, 16, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grant in view of Hunt et al U.S. Patent 6,539,422, and further in view of *Microsoft Computer Dictionary*, as cited in prior office action, which was mailed on 10/6/2003.

3. Claims 9, 11, 14, 15, 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, as cited in prior office action, which was mailed on 10/6/2003

Specification

4. Claim 21 is objected to because of the following informalities: the limitation of “transacting data in a data area in response to a request by the persistent data” is missing from the claim and leaves the word “object,” as a non-sequitur in the claim. Appropriate correction is required.

Art Unit: 2113

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3-8, 10, 17, 19-20, 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Grant et al U.S. Patent 5,027,269.

As per claim 1, Grant discloses a computerized method to recover session information and data after a change in a network (column 2, lines 42-45) the method comprising: connecting a persistent data object to a first persistent data control object (column 4, lines 35-38); transacting data in a data area in response to a request by the persistent data object, with the first persistent data control object controlling the transaction of the data in the data area (column 4, lines 35-38); dynamically replicating the data area in at least one alternate persistent data control object located anywhere in the network (column 4, lines 38-59; column 4, line 67 – column 5, line 2); and connecting the persistent data object to an alternate persistent data control object upon notification of the change in the system, with the alternate persistent data control object obtaining control of the transaction of the data in the data area upon the change in the network (column 4, line 67 - column 5, line 2; column 4, lines 45-51).

As per claim 3, Grant discloses the method of claim 1 wherein the change in the system comprises a failure of the first persistent data control object (column 2, lines 51-54).

As per claim 4, Grant discloses the method of claim 1, the method further comprising creating a data area in response to a request by the persistent data object, with the first persistent data control object controlling the creation of the data area (column 4, lines 35-38).

As per claim 5, Grant discloses the method of claim 1 additionally comprising connecting the persistent data object to a second persistent data control object (column 4, lines 45-51).

As per claim 6, Grant discloses the method of claim 1, the method further comprising storing the data area in a media device (column 4, lines 35-38).

As per claim 7, Grant discloses the method of claim 6, wherein the media device is chosen from the list consisting of a memory, hard disc drive, and a networked media device (column 4, lines 35-38).

As per claim 8, Grant discloses the method of claim 1, wherein session information is stored in the first persistent data control object and replicated in alternate persistent data control objects (column 2, lines 51-54).

As per claim 17, Grant discloses the method of claim 1, wherein the connection of the persistent data object to the alternate persistent data control object is done transparently to a user (column 4, lines 9-16).

As per claim 19, Grant discloses the method of claim 1, the method further comprising requesting a transaction of data in the data area by a user, with the user sending the request to the persistent data object (column 2, lines 51-58; column 1, lines 36-47).

As per claim 20, Grant discloses the method of claim 19, wherein the user is selected from the list consisting of a person, a program, a person using a program, a program using a program, and expanding levels of programs using programs (column 1, lines 36-47).

As per claim 22, Grant discloses a computer system for recovering session information and data after a change in the system (column 2, lines 42-45), the method comprising: a computer, wherein the computer comprises a memory (column 2, lines 36-42) and a processor

(column 1, lines 36-47); and executable software residing in the computer memory (column 2, lines 36-42) wherein the software is operative with the processor to: connect a persistent data object to a first persistent data control object (column 4, lines 35-38); transact data in a data area in response to a request by the persistent data object, wherein the first persistent data control object controls the transaction of the data in the data area (column 4, lines 35-38); replicate the data area in at least one alternate persistent data control objects (column 4, lines 38-39; column 4, line 67 – column 5, line 2); and connect the persistent data object to an alternate persistent data control object upon notification of the change in the system, wherein the alternate persistent data control object obtains control of the transaction of the data in the data area upon the change in the system (column 4, line 67 - column 5, line 2; column 4, lines 45-51).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 12, 13, 16, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grant in view of Hunt et al U.S. Patent 6,539,422, and further in view of *Microsoft Computer Dictionary*.

As per claim 2, Grant teaches the method of claim 1, wherein the system comprises an Application comprised of objects, and a Messaging Scheme (column 5, lines 13-30), wherein, the messaging scheme is utilized by the session monitor of Grant to communicate with each

session object and monitor the respective state of each. Grant does not explicitly teach a System Registry. Microsoft does teach the use of a registry as being a central hierarchical database in Windows9x systems (page 379). Although, a Windows9x operating system is not taught in Grant, a lower Windows operating system was available at the time of the Grant invention. The proof of the compatibility of the Grant invention in a Windows environment is given in Hunt by Hunt utilizing the Grant invention program NetView in a Windows environment (column 7, line 22 and column 8, line 66). It would have been obvious to one of ordinary skill in the art to combine the Windows environment of Hunt, which includes the System Registry, into the process of Grant. One of ordinary skill in the art would have been motivated to combine the Windows environment of Hunt, which includes the System Registry, into the process of Grant because by using an updated version of an operating system allows the computer system to take advantage of all current applications. Also, the Windows environment allows for multi-tasking of different applications, which is a desirable attribute as taught by Grant (column 1, lines 43-44).

As per claim 12, Grant teaches the method of claim 2, the method further comprising the persistent data object communicating with the first persistent data control object and the alternate persistent data control object through the Messaging Scheme (column 5, lines 13-30).

As per claim 13, Grant teaches the method of claim 2, wherein the Messaging Scheme determines the change in the system and notifies the persistent data object (column 5, lines 13-30).

As per claim 16, Grant teaches the method of claim 2, the method further comprising the determining the change in the network by sending a message to the first persistent data control

Art Unit: 2113

object to determine the current state of the first persistent data control object (column 5, lines 13-30).

As per claim 21, Grant discloses a computerized method to recover session information and data after a change in the network, with the network including at least an Application comprised of objects, and a Messaging Scheme (column 5, lines 13-30) and with the change in the network including a failure of the first persistent data control object (column 2, lines 51-54), the method comprising: connecting a persistent data object to a first persistent data control object (column 4, lines 35-38); creating a data area in response to a request by the persistent data object, with the first persistent data control object controlling the creation of the data area (column 4, lines 35-38); [transacting data in a data area in response to a request by the persistent data] object, with the first persistent data control object controls the transaction of the data in the data area (column 4, lines 35-38); dynamically replicating the data area in at least one alternate persistent data control objects located anywhere in the network (column 4, lines 38-39, 46-59; column 4, line 67 – column 5, line 2); determining the change in the network by sending a message to the first persistent data control object to determine a current state of the first persistent data control object (column 5, lines 13-30); connecting the persistent data object to an alternate persistent data control objects upon notification of the change in the network, with the alternate persistent data control object obtaining control of the transaction of the data in the data area upon the change in the network; and connecting the persistent data object to the second persistent data control object (column 4, lines 45-51; column 4, line 67 – column 5, line 2). Grant does not explicitly teach a System Registry. Microsoft does teach the use of a registry as being a central hierarchical database in Windows9x systems (page 379). Although, a

Art Unit: 2113

Windows9x operating system is not taught in Grant, a lower Windows operating system was available at the time of the Grant invention. The proof of the compatibility of the Grant invention in a Windows environment is given in Hunt by Hunt utilizing the Grant invention program NetView in a Windows environment (column 7, line 22 and column 8, line 66). It would have been obvious to one of ordinary skill in the art to combine the Windows environment of Hunt, which includes the System Registry, into the process of Grant. One of ordinary skill in the art would have been motivated to combine the Windows environment of Hunt, which includes the System Registry, into the process of Grant because by using an updated version of an operating system allows the computer system to take advantage of all current applications. Also, the Windows environment allows for multi-tasking of different applications, which is a desirable attribute as taught by Grant (column 1, lines 43-44).

Response to Arguments

9. Applicant's arguments filed 4/5/2004 have been fully considered but they are not persuasive.

The applicant argues that Grant does not anticipate the amended teaching of the present invention of dynamically replicating the data area in at least one alternative persistent control object that may exist anywhere in the network. The examiner respectfully disagrees. In column 4, lines 30-67, Grant teaches wherein an alternate instance of a control object is created as a recovery object in case the original control object fails. Upon the failure of the original control object, the alternate control object takes control of the persistent connection of LUX to LUY. The

Art Unit: 2113

applicant further points to the present invention's specification of page 9, lines 8-12 as the primary source of this argument. Page 9, lines 8-12, states "Once the first PDC is deemed inactive, the surrounding Data Engines can notice the disappearance and send messages to their managed objects and peers to "unregister" the PDC service 303. This information is passed to the PDO, which can perform a switch to an alternate PDC 306 if its primary PDC failed 305. This switch can be transparent to the invoking application." The examiner cites column 4, lines 59-67, of Grant, wherein he teaches the alternate control takes over for a failed control object. Grant further teaches this alternate object to continue the session upon failure of the original object. Since the session is taught as continuous, the switch between the failed object and the alternate object is deemed transparent to the application executing. In light of the above arguments and the teachings of Grant, all applicable claims stand rejected.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2113


however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. McCarthy whose telephone number is (703)305-7599. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (703)305-9713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

csm
May 5, 2004


ROBERT BEAUSOLIEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100